

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 97- 9004

Appointment of a District Judge to Preside
in a State Bar Disciplinary Action

The Supreme Court of Texas hereby appoints the Honorable Adolph Canales, Judge of the 298th District Court of Dallas County, Texas, to preside in the Disciplinary Action styled:


The Commission for Lawyer Discipline v. Jerry Register

to be filed in a District Court of Walker County, Texas.

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Walker County, Texas, a copy of this Order and of the Disciplinary Petition for filing and service pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

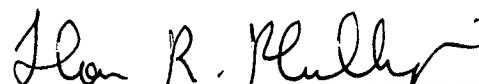
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this ~~2nd~~^{23rd} day of January, 1997.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 9⁷-9004, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 6 day of January, 1997.

A handwritten signature in cursive script, reading "Thomas R. Phillips". The signature is written in dark ink and is positioned above a horizontal line.

Thomas R. Phillips
Chief Justice

COPY

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
	§	
v.	§	WALKER COUNTY, TEXAS
	§	
JERRY REGISTER	§	_____ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF THE COURT:

COMES NOW Petitioner, the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas, complaining of Respondent, JERRY REGISTER, III, showing the Court as follows:

I.

The Commission for Lawyer Discipline brings this disciplinary action pursuant to the State Bar Act, Texas Government Code Annotated §81.001, *et seq.*, the Texas Disciplinary Rules of Professional Conduct, and the Texas Rules of Disciplinary Procedure. The complaints that form the basis of this Disciplinary Petition were filed on or after May 1, 1992.

II.

Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas. Respondent has his principal place of practice in Walker County, Texas, and venue therefore is appropriate in Walker County, Texas, pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure. An officer may serve citation on Respondent at 1214 Sam Houston Avenue, Suite 3, Huntsville, Texas, 77342.

FIRST CAUSE OF ACTION

III.

On or about January 23, 1995, Cristina Sanchez and Juanita Martinez (hereinafter referred to as "the clients") were involved in an automobile accident in Bexar County, Texas. Thereafter, on or about January 27, 1995, Laura Garcia and Gino Perez contacted the clients by telephone and in person regarding legal representation in connection with the January 23rd accident. Garcia and Perez referred the clients to Respondent's law office and then transported them to the office. The clients had no familial or prior attorney-client relationship with Respondent, and they had not sought his advice.

At Respondent's law office, the clients met with Lisa Vullo, an employee of Respondent, and signed an employment contract that designated Respondent as their attorney. Respondent then accepted and continued employment on the clients' behalf when he reasonably should have known that the clients sought his services as a result of improper solicitation.

The clients never met or spoke with Respondent during the entire time that he was designated as their attorney. In fact, during January and February of 1995, Respondent visited his Bexar County office only three (3) times and maintained inadequate supervision of Vullo, although she acted on his behalf.

IV.

Through his conduct in obtaining employment related to the clients' auto accident for the purpose of his own pecuniary gain, Respondent committed professional misconduct in violation of Rule 7.03(a) [lawyer shall not by in-person or telephone contact seek

professional employment in a matter arising out of a specific occurrence]; Rule 7.03(b) [lawyer shall not give or offer anything of value to a nonlawyer for soliciting prospective clients for or referring prospective clients to any lawyer or firm]; Rule 7.03(e) [lawyer shall not participate with or accept referrals from a lawyer referral service unless the lawyer knows or reasonably believes the service meets the statutory requirements prescribed for lawyer referral services]; Rule 8.04(a)(1) [lawyer shall not violate the disciplinary rules]; and/or Rule 8.04(a)(9) [lawyer shall not engage in conduct that constitutes barratry] of the Texas Disciplinary Rules of Professional Conduct.

Through his conduct in permitting Vullo to act on the clients' behalf without adequate supervision and failing to ensure that her conduct did not violate any disciplinary rules, Respondent committed professional misconduct in violation of Rule 5.03(a) [lawyer having direct supervisory authority over a nonlawyer shall make reasonable efforts to ensure that the nonlawyer's conduct is compatible with the lawyer's professional obligations]; Rule 5.03(b)(1) [lawyer shall be subject to discipline for a nonlawyer's conduct that would be violative of the disciplinary rules if engaged in by a lawyer and the lawyer orders, encourages, or permits the conduct]; Rule 5.05(b) [lawyer shall not assist a nonlawyer in the performance of activity that constitutes the unauthorized practice of law]; and Rule 8.04(a)(1) [lawyer shall not violate the disciplinary rules] of the Texas Disciplinary Rules of Professional Conduct.

V.

The complaint that forms the basis of the First Cause of Action set forth above was brought to the attention of the Office of the General Counsel of the State Bar of Texas by James Mazuca's filing a grievance on or about August 17, 1995.

SECOND CAUSE OF ACTION

VI.

On or about February 21, 1995, Rodolfo Martinez was involved in an automobile accident in Bexar County. Thereafter, on or about February 22, 1995, two people contacted Martinez by telephone and in person to discuss the auto accident. They subsequently referred Martinez to Respondent and also transported him to Respondent's office. Martinez had no familial or prior attorney-client relationship with Respondent and had not sought Respondent's advice.

At Respondent's office, Martinez met with Lisa Vullo, a nonlawyer employed by Respondent, and signed an employment contract that designated Respondent as his attorney. Respondent then accepted and continued employment on Martinez's behalf when he reasonably should have known that Martinez sought his services as a result of improper solicitation.

Martinez never met or spoke with Respondent during the entire time that he was designated as Martinez's attorney. Vullo completely managed and directed Martinez's case to its conclusion without Respondent's involvement although at all times Vullo acted on Respondent's behalf and for his pecuniary benefit. Respondent also failed to adequately

supervise Vullo so as to ensure that her conduct was compatible with his professional obligations.

During the time that Martinez's case was being handled by Respondent's firm, Respondent failed to advise Martinez of the true status of his case. Respondent also failed to provide Martinez with an accounting of the disbursement of settlement proceeds to permit Martinez to resolve his outstanding medical bills. In response, Martinez filed a grievance with the State Bar against Respondent.

On December 14, 1995, after Martinez filed a grievance with the State Bar, the District Grievance Committee issued a subpoena to Respondent commanding him to produce certain documents related to his representation of Martinez. Respondent failed to produce the subpoenaed documents or timely assert a privilege or other legal ground for his failure to produce the documents. Respondent ultimately claimed that he might have lost the subpoenaed documents.

VII.

Through his conduct in obtaining employment related to Martinez's auto accident for the purpose of his own pecuniary gain, Respondent committed professional misconduct in violation of Rule 7.03(a) [lawyer shall not by in-person or telephone contact seek professional employment in a matter arising out of a specific occurrence]; Rule 7.03(b) [lawyer shall not give or offer anything of value to a nonlawyer for soliciting prospective clients for or referring prospective clients to any lawyer or firm]; Rule 7.03(e) [lawyer shall not participate with or accept referrals from a lawyer referral service unless the lawyer knows or reasonably believes the service meets the statutory requirements related to lawyer

referral services]; Rule 8.04(a)(1) [lawyer shall not violate the disciplinary rules]; and/or Rule 8.04(a)(9) [lawyer shall not engage in conduct that constitutes barratry] of the Texas Disciplinary Rules of Professional Conduct.

Through his conduct in permitting Vullo to act on Martinez's behalf without adequate supervision and failing to ensure that her conduct did not violate any disciplinary rules, Respondent committed professional misconduct in violation of Rule 5.03(a) [lawyer having direct supervisory authority over a nonlawyer shall make reasonable efforts to ensure that the nonlawyer's conduct is compatible with the lawyer's professional obligations]; Rule 5.03(b)(1) [lawyer shall be subject to discipline for a nonlawyer's conduct that would be violative of the disciplinary rules if engaged in by a lawyer and the lawyer orders, encourages, or permits the conduct]; Rule 5.05(b) [lawyer shall not assist a nonlawyer in the performance of activity that constitutes the unauthorized practice of law]; and Rule 8.04(a)(1) [lawyer shall not violate the disciplinary rules] of the Texas Disciplinary Rules of Professional Conduct.

Through his conduct in failing to keep Martinez informed of the true status of his case, Respondent committed professional misconduct in violation of Rule 1.03(a) [lawyer shall keep a client reasonably informed about the status of a matter]; Rule 1.03(b) [lawyer shall explain a matter to the extent necessary to permit the client to make informed decisions regarding the representation] and Rule 8.04(a)(1) [lawyer shall not violate the disciplinary rules] of the Texas Disciplinary Rules of Professional Conduct.

Through his conduct in failing to keep complete records of Martinez's settlement funds and preserve those records for a period of five years after his representation of

Martinez ended, Respondent committed professional misconduct in violation of Rule 1.14(a) [complete records of clients' account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation] and Rule 8.04(a)(1) [lawyer shall not violate the disciplinary rules] of the Texas Disciplinary Rules of Professional Conduct.

Through his conduct in failing to timely respond to the District Grievance Committee's subpoena, Respondent committed professional misconduct in violation of Rule 8.04(a)(8) [lawyer shall not fail to timely furnish to a district grievance committee information as required by the Texas Rules of Disciplinary Procedure unless a privilege or other legal ground is timely asserted]; Rule 8.01(b) [lawyer in connection with a disciplinary matter shall not fail to respond to a lawful demand for information from a disciplinary authority]; and Rule 8.04(a)(1) [lawyer shall not violate the disciplinary rules]; of the Texas Disciplinary Rules of Professional Conduct.

VIII.

The complaint that forms the basis of the Second Cause of Action set forth above was brought to the attention of the Office of the General Counsel of the State Bar of Texas by Rodolfo Martinez's filing a grievance on or about August 4, 1995.

Prayer

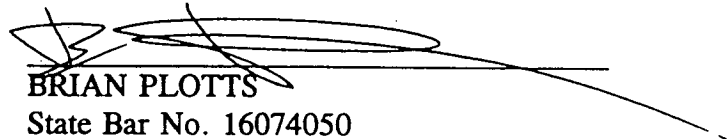
WHEREFORE, PREMISES CONSIDERED, Petitioner respectfully prays that this Court discipline Respondent as the facts shall warrant and that Petitioner have all other relief to which it may show itself to be justly entitled, including costs of court and attorney's fees.

Respectfully submitted,

Steven W. Young
General Counsel

Brian Plotts
Assistant General Counsel

Office of the General Counsel
STATE BAR OF TEXAS
Box 12487, Capitol Station
Austin, Texas 78711
(512) 463-1463
(512) 477-4607 (FAX)


BRIAN PLOTTS
State Bar No. 16074050

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



October 28, 1996

Office of the General Counsel

**Mr. John T. Adams, Clerk
Supreme Court of Texas
P.O. Box 12248
Austin, Texas 78711-2487**

Re: Commission For Lawyer Discipline v. Jerry Register

Dear Mr. Adams:

Enclosed please find an original and two (2) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against Jerry Register. Jerry Register has designated Walker County, Texas, as his principal place of practice. Request is hereby made that the Supreme Court appoint an active District Judge who does not reside in the Administrative Judicial Region in which Respondent resides to preside in this case. Upon appointment, request is made that you please notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

**Jerry Register, Attorney at Law
1214 Sam Houston Avenue, Suite 3
Huntsville, Texas, 77342**

I would respectfully request that inquiry be made with the judge to be appointed as to whether he or she will be able to comply with the 180 day deadline by which the case must be set for trial set forth in Section 3.07 of the Texas Rules of Disciplinary Procedure.

Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the filing fee check, which is enclosed, and the Court's appointing order to the District Clerk of Walker County, Texas, with the request that the suit be filed, service be obtained, and a filemarked copy of the petition be returned to the undersigned.

Also enclosed are a pre-addressed envelope for your use in transmitting the petition and any other documents, to the District Clerk of Walker County, Texas, and a return envelope to be sent to the District Clerk of Walker County, Texas, for the Clerk's use in returning a filemarked copy of the petition to the undersigned.

**Mr. John Adams
Clerk, Supreme Court of Texas
Page 2**

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Plotts", with a long horizontal flourish extending to the right.

**Brian Plotts
Assistant General Counsel**

BP/tjm/enclosures

c: William E. Minkley, Chief Trial Counsel, State Bar of Texas, with enclosure



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

CLERK
JOHN T. ADAMS

JUSTICES
RAUL A. GONZALEZ
NATHAN L. HECHT
JOHN CORNYN
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

January 8, 1997

The Honorable Dorris McMilian
District Clerk of Walker County
301 Courthouse
1100 University Avenue
Huntsville, Texas 77340

Dear Ms. McMilian:

Pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure, I am sending for filing State Bar of Texas Disciplinary Action styled: The Commission for Lawyer Discipline v. Jerry Register, and a copy of the Supreme Court's order appointing the Honorable Adolph Canales, Judge of the 298th District Court, Dallas, Texas, to preside in this Disciplinary Action.

Sincerely,

A handwritten signature in black ink, appearing to be "John T. Adams", written over a circular stamp or mark.

John T. Adams
Clerk

cc: Hon. Adolph Canales
Mr. Jerry Register
Mr. Brian Plotts



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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CLERK
JOHN T. ADAMS

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ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

January 8, 1997

Mr. Brian Plotts
Assistant General Counsel, State Bar of Texas
Box 12487, Capitol Station
Austin, Texas 78711

Mr. Jerry Register
1214 Sam Houston Avenue, Suite 3
Huntsville, Texas 77342

Dear Mr. Plotts and Mr. Register:

Pursuant to Rule 3.02 of the Texas Rules of Disciplinary Procedure, I hereby notify you that the Supreme Court of Texas has appointed the Honorable Adolph Canales, Judge of the 298th District Court, Dallas, Texas to preside in

Commission for Lawyer Discipline v. Jerry Register

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Adams".

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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January 8, 1997

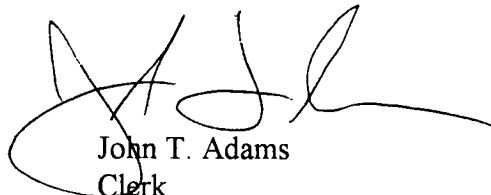
Honorable Adolph Canales
Judge, 298th District Court
George L. Allen Sr. Courts Building
600 Commerce Street
Dallas, Texas 75202

Dear Judge Canales:

We enclose for your information a copy of the order of assignment, a copy of the Disciplinary Action, a copy of the notification letter to Mr. Plotts and Mr. Register, and a copy of the letter to the District Clerk of Walker County.

We then recommend that, four or five weeks after receipt of this letter, you or your coordinator contact the presiding judge or the District Clerk of Walker County to find out the district court to which this disciplinary case has been assigned. We then recommend that, either before or immediately after you set the date for trial, the judge or coordinator of that court be contacted to reserve a courtroom, provide for a court reporter, etc. Finally, you should contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (409-538-8176) to obtain information on lodging, allowable expenses, and claims forms for your expenses incident to presiding over this disciplinary case.

Sincerely,

A handwritten signature in black ink, appearing to be "John T. Adams", written over a circular stamp or mark.

John T. Adams
Clerk